

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

Docket. No. 07 Cr. 957 (RJS)

- against -

**MEMORANDUM**

FRANKIE TORRES,

Defendant.

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**MEMORANDUM OF LAW IN SUPPORT OF  
MOTION FOR A CONTINUANCE OF SENTENCING**

Preliminary Statement

This memorandum of law is respectfully submitted in support of the notice of motion of Frankie Torres which seeks a continuance of sentencing.

Statement of Facts

Frankie Torres is charged in a two count indictment with a conspiracy to commit bank fraud in violation of 18 U.S.C. § 1349 and bank fraud in violation of 18 U.S.C. § 1344.

On January 4, 2008, Frankie Torres appeared before this court and, pursuant to a plea agreement with the government, entered a guilty plea to both counts of the indictment. Sentencing is presently scheduled for April 17, 2008 at 10:15 a.m.

I have been on trial for the past 8 weeks in a very intense case in New York State Supreme Court, Queens County before the Hon. Arthur J. Cooperman, People v. Michael Oliver, et al. The case, known as the Sean Bell trial, has included over 50

prosecution witnesses, thousands of documents, exhibits and diagrams. As a result, I have been unable to complete my review the P.S.R. and the submission of Rule 32 objections and a sentencing recommendation on behalf of Frankie Torres.

Generally, trial courts have "broad discretion" in criminal and civil cases to grant or deny adjournments. Morris v. Slappy, 461 U.S. 1, 11 (1983). The denial of a postponement of sentencing is reviewed for abuse of discretion. United States v. Zuber, 118 F.3d 101, 104-05 (2d Cir. 1997). But where counsel has not had a sufficient time to review material germane to the sentencing, the Second Circuit has found an abuse of discretion in denying a continuance. See, United States v. Robin, 545 F.2d 775, 782 (2d Cir. 1976). This case presents the appropriate reasons and circumstances for the exercise of judicial discretion to grant a continuance so that the defendant can file Rule 32 objections, along with his sentencing recommendations.

### CONCLUSION

For the reasons set forth above, the court should grant a continuance in the exercise of prudent judicial discretion.

Dated: New York, New York  
April 12, 2008

Respectfully submitted,

/S/ Anthony L. Ricco  
Anthony L. Ricco, Esq.